

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

UNITED STATES OF AMERICA,                     ) 3:12-cv-02265-SI  
   )  
                  Plaintiff,                     )  
   )  
                                  v.                     ) December 19, 2013  
   )  
THE CITY OF PORTLAND,                     )  
   )  
                  Defendant.                     )  
\_\_\_\_\_) Portland, Oregon

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE MICHAEL H. SIMON  
UNITED STATES DISTRICT COURT JUDGE

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APPEARANCES

FOR THE PLAINTIFF:

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1 (December 19, 2013)

2 P R O C E E D I N G S

3 (In chambers; telephone conference:)

4 THE CLERK: Your Honor, this is the time set for  
5 status conference in civil case 12-2265-SI, United States  
6 of America versus the City of Portland.

7 Counsel, beginning with plaintiff, would you  
8 please identify yourselves for the record.

9 MR. GEISSLER: Good afternoon, Your Honor.  
10 Jonas Geissler for the United States.

11 MS. BROWN: Good afternoon. Adrian Brown for  
12 the United States.

13 MR. WILLIAMS: Good afternoon, Your Honor.  
14 Bill Williams for the United States.

15 THE COURT: Good afternoon.

16 MS. CURPHEY: Good afternoon, Your Honor.  
17 Shauna Curphey for AMA Coalition for Justice and Police  
18 Reform.

19 THE COURT: Good afternoon.

20 MS. KARIA: Good afternoon, Your Honor. Anil  
21 Karia for the Portland Police Association.

22 MS. OSOINACH: Ellen Osoinach for the City of  
23 Portland. Good afternoon.

24 MR. WOBORIL: David Woboril for the City  
25 Attorney's Office.

1 MR. AUERBACH: May it please the Court, I am  
2 Harry Auerbach, acting city attorney.

3 THE COURT: All right. I have received the  
4 unopposed amended motion for order to set procedures for  
5 fairness hearing. I have reviewed it. I have some  
6 comments and some suggested changes. Basically let me  
7 start by congratulating all four parties on getting to  
8 this point. I think that you have obviously worked very  
9 hard, very diligently, and in the best interests, not only  
10 of your respective clients, but I think also of the  
11 community, the city, the state, and the country, as a  
12 whole. So I congratulate you all on reaching this stage.

13 Now, to be precise, I have not made any findings  
14 on the settlement agreement. That's why we need to have a  
15 fairness hearing. I appreciate the proposed procedures  
16 that you have all presented to me. By and large, I'm  
17 prepared to accept those.

18 Here is what I mean by "by and large." Let me  
19 ask my law clerk, Nicholle Winters, to distribute to all  
20 four parties two copies of each of four documents, and  
21 then I will explain what they are and give you an  
22 opportunity to review them.

23 All right. Let's start in the following order:  
24 The order setting notice and procedures for fairness  
25 hearing. Then Exhibit A to that is the testimony form.

1 Exhibit B to that is the notice of fairness hearing that I  
2 envisioned will be sent by the parties to various  
3 community organizations, media organizations, and placed  
4 on the various parties' websites, and that has a footer at  
5 the bottom of Exhibit B.

6 Finally, a separate document that is very  
7 similar in content that is headed "Information regarding  
8 Proposed Settlement Agreement and Fairness Agreement," and  
9 my thinking is that this is what will be posted on the  
10 Court's website.

11 Frankly, let me start by looking at this  
12 document with you all, and then I will give you time to  
13 read everything. By the way, I don't think that anyone  
14 here will see anything substantively or materially  
15 different from what you are proposing, but I thought we  
16 needed to find a way to make sure that the public had easy  
17 and efficient access to several documents: The complaint,  
18 the proposed settlement agreement, the notice, and  
19 obviously the testimonial form.

20 So what I am suggesting, and I will be glad to  
21 take feedback from any of you, is that this document that  
22 begins "Information Regarding Proposed Settlement  
23 Agreement and Fairness Hearing" be placed on the U.S.  
24 District Court for the District of Oregon website. It  
25 contains several links. If you take a look at the second

1 page of this document where it says "key documents," my  
2 expectation is that these are all the hyperlinks that  
3 would take the viewer to the complaint that has been  
4 filed, the proposed settlement agreement, the Court order  
5 setting notice, the notice of fairness hearing, and the  
6 testimony form can be printed off and used. So that would  
7 go on the Court's website.

8           With respect to the Order Setting Notice and  
9 Procedure for Fairness Hearing, I understand that all  
10 parties are requesting a fairness hearing on  
11 February 18th. Although your document listed the year as  
12 1014 -- that's about a thousand years ago -- I think we  
13 should do it in the year 2014. I'm accepting your  
14 suggested date of February 18th at 9:00 a.m. in this  
15 courtroom.

16           I've made a few minor changes here. For  
17 example, you will see that in the middle of page 2, I am  
18 suggesting that the testimony form can be sent by e-mail  
19 if people wished. You're certainly welcome to deliver it  
20 to the clerk's office by hand. They are certainly welcome  
21 to mail it to the Court. If they want to e-mail, they can  
22 e-mail it to my courtroom deputy, Ms. Austad. We modified  
23 that.

24           There are a few minor changes at the bottom of  
25 page 2 in the paragraph that deal with the form submitted.

1 There are a few minor changes to the bottom paragraph on  
2 page 3. Then the top three lines at the top of page 4 are  
3 added. I do think that it would be valuable for the  
4 United States -- maybe you are already planning this --  
5 but I think it would be valuable for the United States to  
6 provide the notice of the fairness hearing and the  
7 testimony form to, among other organizations, The National  
8 Alliance on Mental Illness, Bud Clark Commons, the JOIN  
9 organization, and Project Respond.

10 So I have added that to the top of page 4. Then  
11 there are some very minor changes in procedure in the  
12 first full paragraph on page 4. So that's the Order  
13 Setting Notice and Procedures for Fairness Hearing.

14 Then on Exhibit A, your testimony form, we've  
15 really only made some very minor changes. In the middle  
16 of the first page, we are making reference to the website.  
17 So these documents are available online at the U.S.  
18 District Court's website.

19 Then on page 3, the mailing address and the  
20 e-mail address, the e-mail address I have added, the  
21 e-mail address of my courtroom deputy, Ms. Austad. Then  
22 for the mailing address, we have added a special line for  
23 fairness hearing comments. It will make it easier for our  
24 mail room. I think that's it for Exhibit A.

25 I don't think we made any changes to Exhibit B.

1 If they are, they are very minor. I'm sorry; my mistake.  
2 Exhibit B is new. This is a notice that we wanted to  
3 present to you all that could go to the community  
4 organizations, the media organizations, and if you wished,  
5 posted on the parties' websites, at least our objective  
6 was to provide relatively plain-English information about  
7 what the case is about and what the purpose of the  
8 fairness hearing is and the procedures for that.

9 So we would release that to the media. The  
10 parties would be free, indeed encouraged, to release to  
11 their media lists, to distribute it to the community  
12 organizations that this notice should go to, and, frankly,  
13 our recommendation would be that the parties put it, as  
14 appropriate, on their websites. Anyway, enough said on  
15 that.

16 So would you like to take a few minutes to read  
17 these documents, and then I will ask you any suggested  
18 changes either to any of the text or any of the processes?  
19 Do you want to take some time to read it?

20 MR. GEISSLER: Yes, Your Honor.

21 THE COURT: What do you recommend? Five  
22 minutes? Ten minutes?

23 MR. GEISSLER: Five.

24 THE COURT: We will be in recess for five  
25 minutes, and then I will come back.



1 (Recess.)

2 (Open court; proceedings resumed:)

3 THE COURT: All right. Let me turn this back  
4 over to you. Tell me whether or not you believe I have  
5 made any errors or can do it any better, whether it be  
6 suggested changes to the text, to the procedures, or  
7 whether you think I'm just going the wrong direction in  
8 something, but it is awfully close to your suggested  
9 directions.

10 Let's start with counsel for the Government.

11 MR. GEISSLER: Thank you, Your Honor.

12 In the first paragraphs, Your Honor, of the two  
13 documents drafted by Your Honor's chambers, Information  
14 regarding Proposed Settlement Agreement and Fairness  
15 Hearing, and the second one, Notice of Fairness Hearing,  
16 we have consistent changes in both documents.

17 Let me begin with the Information regarding  
18 Proposed Settlement Agreement and Fairness Hearing.

19 THE COURT: All right.

20 MR. GEISSLER: It currently reads, "The  
21 United States Department of Justice has concluded." We  
22 would ask the Court to change that to mirror the language  
23 of our findings letter wherein we say, "We found  
24 reasonable cause to believe."

25 THE COURT: "The United States Department of

1 Justice has found reasonable cause to believe."

2 MR. GEISSLER: Striking the word "concluded";  
3 continuing "the Portland Police Department against the  
4 Departments of Bureau."

5 THE COURT: I am sorry. Yes, of course.

6 MR. GEISSLER: "Has an unconstitutional  
7 pattern"; strike "and" and replace it with "or," so it is  
8 "pattern or practice" -- to mirror the language of the  
9 statute -- "of using excessive force against persons  
10 with"; then insert "actual or perceived" in front of  
11 "mental illness."

12 The next sentence, Your Honor, we would ask the  
13 Court to change as follows: "Based on that finding"  
14 rather than "conclusion."

15 THE COURT: All right.

16 MR. GEISSLER: With that, I believe this  
17 document is acceptable. I don't have any other objections  
18 to it. I think the other parties may have some other  
19 comments on it.

20 If I may, Your Honor, I would turn to the Notice  
21 of Fairness Hearing document.

22 THE COURT: Yes.

23 MR. GEISSLER: Returning to the first sentence,  
24 just like the last document, "The United States Department  
25 of Justice has found reasonable cause to believe"; strike

1 the word "concluded"; "that the Portland Police Bureau";  
2 strike the word "department"; "has an unconstitutional  
3 pattern or"; strike the word "and"; "practice of using  
4 excessive force against persons with actual or perceived"  
5 mental illness. This one has the "actual or perceived  
6 language."

7 THE COURT: I'm following you.

8 MR. GEISSLER: Second sentence, "Based on that  
9 finding"; strike the word "conclusion." Then the rest of  
10 the document remains the same.

11 THE COURT: Okay. Before I go to the other  
12 parties, as I hear it then, the United States has other  
13 suggested changes on those two documents. Any suggested  
14 changes or comments on either the testimony form or the  
15 order itself?

16 MR. GEISSLER: I have none right now. I beg  
17 Your Honor's pardon if we may continue to review them as  
18 the other parties comment.

19 THE COURT: Certainly.

20 MR. GEISSLER: I would note, with the permission  
21 of the other parties, on page 4 of Your Honor's  
22 Order Setting Notice and Procedures for Fairness Hearing,  
23 all parties, including the United States, would  
24 be provided -- the United States specifically would be  
25 provided copies, via electronic mail, if known, or first

1 class mail to all individuals that have contacted us.

2 We would be providing copies of substantive  
3 documents. This would necessitate that we would send  
4 documents to individuals who are represented by the PPA  
5 and AMA. It is my understanding that the AMA does not  
6 have an objection. I invite the PPA as well to voice  
7 their opinion on that.

8 Thank you, Your Honor.

9 THE COURT: Thank you, Mr. Geissler.

10 Let me first go to the City and then I will go  
11 to the Portland Police Association and then to AMA.

12 First of all, for the City, with respect to the  
13 proposed changes that the United States has to that  
14 paragraph in the Information regarding Proposed Settlement  
15 and Notice of Fairness Hearing, the overview-of-the-case  
16 paragraph, any objections?

17 MR. WOBORIL: We appreciate the change and feel  
18 it is accurate.

19 THE COURT: Any other comments that the City  
20 wishes to make, either suggested text changes, processes,  
21 or other points that the City wants to make?

22 MS. OSOINACH: No, Judge. We are in agreement  
23 with all the information provided.

24 THE COURT: Thank you.

25 Mr. Karia, on behalf of the police association,

1 first of all, any comments to the Government's proposed  
2 changes to the overview-of-the-case paragraphs?

3 MR. KARIA: Those are acceptable, Your Honor.

4 THE COURT: Okay. With respect to the point  
5 that Mr. Geissler makes about sending the notices, as  
6 directed, if it turns out that there was some comments  
7 received directly from some of your clients, some of the  
8 union members, any objection to the United States sending  
9 out the items that I am directing be sent even though they  
10 may end up being sent to some of your clients if they are  
11 in response to communications received?

12 MS. KARIA: No, sir.

13 THE COURT: Any other suggested comments or  
14 changes to text, processes, or anything else?

15 MS. KARIA: No, sir.

16 THE COURT: All right. Thank you so much.

17 Ms. Curphey, same questions. First, any  
18 comments to the Government's proposed changes to the  
19 overview-of-the-case paragraph?

20 MS. CURPHEY: No, Your Honor.

21 THE COURT: First of all, we will make those  
22 changes. That's fine. Thank you very much.

23 Any comments or reactions to Mr. Geissler's  
24 comment that, under this order, I would be directing the  
25 Government to send certain notices to whomever provided or

1 communicated with them, as on page 4 of this order, even  
2 if some of them might be AMA members? Any objections to  
3 that process?

4 MS. CURPHEY: No objection.

5 THE COURT: Okay. Any other suggested changes  
6 to text, processes, or any other comments?

7 MS. CURPHEY: Yes, Your Honor. With regard to  
8 the overview of the case, on both the Information  
9 regarding Proposed Settlement and the Notice of Fairness  
10 Hearing, Exhibits C and B respectively, there is a  
11 sentence -- I think it is the third sentence down that  
12 says, "The settlement agreement has been considered and  
13 deemed fair and reasonable."

14 THE COURT: One second. I am not following you.  
15 So which document? We are talking Information regarding  
16 Proposed Settlement?

17 MS. CURPHEY: Right. We will start with that  
18 one.

19 THE COURT: Which paragraph?

20 MS. CURPHEY: First paragraph, the overview of  
21 the case.

22 THE COURT: Yes. "The proposed settlement  
23 agreement has been reviewed and deemed fair and  
24 reasonable."

25 Go ahead.

1 MS. CURPHEY: "By the Portland Police  
2 Association and the Albina Ministerial Coalition for  
3 Justice and Police Reform." The Albina Ministerial  
4 Alliance would like to suggest that the sentence end after  
5 "the Portland Police Association" and then a new sentence  
6 begin, "The Albina Ministerial Coalition for Justice and  
7 Police Reform agrees to advocate for the implementation of  
8 the settlement agreement reforms that the AMA Coalition  
9 supports."

10 THE COURT: Let me hear that again slowly.  
11 After the word "reform," add "agrees to advocate."

12 MS. CURPHEY: "For the implementation."

13 THE COURT: "For the implementation."

14 MS. CURPHEY: "Of the settlement agreement  
15 reforms that the AMA Coalition supports."

16 THE COURT: All right. That seems reasonable to  
17 me.

18 Any objection from the Government? From the  
19 United States?

20 MR. GEISSLER: I would point out only,  
21 Your Honor, in the new sentence, the word "Alliance"  
22 should be inserted between "Ministerial and Coalition."  
23 But no objection otherwise, Your Honor.

24 THE COURT: It should be "the Albina Ministerial  
25 Alliance Coalition." Is that what you're saying?

1 MR. GEISSLER: Yes, Your Honor.

2 THE COURT: You agree with that?

3 MS. CURPHEY: Yes. Just to be clear, it might  
4 be better to have "has agreed," because it is referring to  
5 an agreement that came out of the mediation.

6 THE COURT: All right. So where is "has  
7 agreed"?

8 MS. CURPHEY: The sentence starts, "The Albina  
9 Ministerial Alliance Coalition," and then it will say "has  
10 agreed."

11 THE COURT: After "Coalition," it is "The Albina  
12 Ministerial Alliance Coalition for Justice and Police  
13 Reform," right?

14 MS. CURPHEY: Yes, Your Honor.

15 THE COURT: Then it would be "has agreed" --

16 MS. CURPHEY: Correct.

17 THE COURT: -- "to advocate for the  
18 implementation of the settlement agreement reforms that  
19 the AMA Coalition supports."

20 Would that change the United States' position?  
21 Any problem?

22 MR. GEISSLER: Yes, Your Honor.

23 THE COURT: Is the City all right with that?

24 MS. OSOINACH: I apologize. I haven't had a  
25 chance to talk to Ms. Curphey or her client, but I wonder



1 if they would object to the sentence reading, "The AMA  
2 Coalition does not object to the acceptance of the  
3 settlement agreement and has agreed to advocate." That's  
4 just language from the collaborative agreement.

5 THE COURT: I'm not precisely following. Take a  
6 moment and talk to Ms. Curphey what you are referring to,  
7 and then I will hear from you both.

8 (Pause in proceedings.)

9 MS. CURPHEY: Thank you for your patience,  
10 Your Honor. My client is willing to accept the City's  
11 suggestion.

12 THE COURT: Give it to me slowly. Where we have  
13 the previous sentence ends right after "Portland Police  
14 Association." Then we pick up with a new sentence. "The  
15 Albina Ministerial Alliance Coalition for Justice and  
16 Police Reform." Now what, slowly?

17 MS. OSOINACH: It would be, "Does not object to  
18 the acceptance of the settlement agreement."

19 THE COURT: One second. All right.

20 MS. OSOINACH: Does not object to the acceptance  
21 of the settlement agreement by the Court and has agreed,"  
22 and then the language that Ms. Curphey suggested.

23 THE COURT: All right. It is not an independent  
24 clause. There is not going to be a comma; that's just my  
25 ruling.

1           The last sentence is, "The Albina Ministerial  
2 Alliance Coalition for Justice and Police Reform does not  
3 object to the acceptance of the settlement agreement by  
4 the Court and has agreed to advocate for the  
5 implementation of the settlement agreement reforms that  
6 the AMA Coalition supports."

7           Do I have that right?

8           MS. CURPHEY: Yes, Your Honor.

9           MS. OSOINACH: Yes, Your Honor.

10          THE COURT: So no further objections from the  
11 City on that.

12          Any objection to any of these changes from the  
13 Portland Police Association?

14          MS. KARIA: No, sir.

15          THE COURT: All right.

16          MS. CURPHEY: If I may, Your Honor, we have one  
17 other suggestion on Exhibit A, the form. The boxes at the  
18 bottom of that form, we would like one that says "other,  
19 please specify."

20          THE COURT: Probably the logical place for that  
21 would be at the end after "agreement implementation"?

22          MS. CURPHEY: Yes.

23          THE COURT: "Other, please specify." All right.  
24 That seems reasonable.

25          Any objections from any party?

1 MS. OSOINACH: No, Your Honor.

2 MS. KARIA: No, Your Honor.

3 MR. GEISSLER: No, Your Honor.

4 THE COURT: Anything else?

5 MS. CURPHEY: No, Your Honor.

6 THE COURT: All right. Mr. Geissler.

7 MR. GEISSLER: I take it, Your Honor, that the  
8 same changes from the Information regarding Proposed  
9 Settlement Agreement and Fairness Hearing will be  
10 incorporated into Notice of Fairness Hearing regarding the  
11 AMA sentence?

12 THE COURT: Precisely.

13 All right. Anything else from the parties at  
14 this time?

15 MS. OSOINACH: Nothing from the City.

16 THE COURT: All right. I do note that there are  
17 members of the public here. Although there are limits, is  
18 there any input from the public that they wish to provide  
19 at this time regarding the processes? Now is not the time  
20 to provide any input as to whether or not the settlement  
21 agreement is fair, reasonable, and adequate. That will  
22 take place either in writing or in other forums or orally  
23 in this courtroom on Tuesday, February 18th, beginning at  
24 9:00 a.m. I will hear from anyone and everyone who wishes  
25 to provide input at that time, consistent with this order.

1 But right now, just in terms of the processes or  
2 procedures -- I want to be fully transparent about this --  
3 in terms of the processes and procedures that I will be  
4 following for the setting of this fairness hearing, does  
5 anyone else wish to be heard at this time? If so, you are  
6 invited to come step forward. I will ask the courtroom  
7 deputy to give you a microphone if you want to say  
8 something about the processes or procedures.

9 Again, please do not comment now about whether  
10 or not the settlement agreement is fair, reasonable, or  
11 adequate.

12 Does anyone wish to come forward?

13 I am seeing a hand. Please state your name for  
14 the record first.

15 MR. HANDELMAN: Your Honor, my name is  
16 Dan Handelman. I am a member of Portland Copwatch. I was  
17 reading about the limit of 20 written pages and questions  
18 about other documents regarding the settlement agreement.  
19 I don't know if that means that Your Honor is going to be  
20 reading those other documents as well, which would then  
21 perhaps exceed the 20 pages. I'm hoping if we have a  
22 document that precedes what we're going to submit to the  
23 Court, that that can be entered into the record without  
24 going over that 20-page limit.

25 THE COURT: It is my intention to read anything

1 and everything that is submitted to me. If someone moves  
2 to submit something that's longer than 20 pages, just  
3 either ask for permission to go beyond it, and it will be  
4 granted, or I will deem that submission to include an  
5 implicit request for that extension, and I will consider  
6 it. Obviously what I can't do, if someone recommend that  
7 I read five or ten books before the fairness hearing, I  
8 can't do that. If there is some evidence or important  
9 information that, in reality, someone thinks I should  
10 read, I will make the effort and read it.

11 MS. BROWN: May I make a point of clarification  
12 on that, Your Honor?

13 THE COURT: You may.

14 MS. BROWN: The purpose of that question was so  
15 that the Court and parties know whether or not the person  
16 has previously provided public comment previously, that we  
17 could then look at or find or refer to. The form doesn't  
18 request the individual to go find those other copies and  
19 attach them. It asks for a "yes" or "no" and asks them to  
20 describe it briefly.

21 THE COURT: Thank you.

22 MR. WALSH: My name is Joe Walsh. I represent  
23 Individuals for Justice. We would like to compliment you  
24 on opening it up to the public and thank you for doing  
25 that. It is a good start.

1 THE COURT: Thank you, Mr. Walsh.

2 Anyone else?

3 MS. HARDESTY: Hello, sir. I am Jo Ann  
4 Hardesty. I had a question about the videotaping of  
5 testimony and wanted to know what the process would be for  
6 Your Honor and others to be able to review that video.

7 THE COURT: Thank you, Ms. Hardesty. That's a  
8 good question. Let me ask one of the parties, or counsel,  
9 if you have any insights on that.

10 Does anyone wish to comment on that?

11 MR. GEISSLER: Your Honor, I can assert that it  
12 is novel for the fairness hearings that we have engaged  
13 in, the Civil Rights Division, to have video submissions.  
14 I would imagine if the Court collects the videos, and the  
15 Court requires the assistance of the United States to have  
16 those duplicated and provided to all four parties, we  
17 would be willing to do that, Your Honor.

18 THE COURT: Depending upon how burdensome it is  
19 for the Court, we may or may not take you up on the offer.

20 Ms. Hardesty, is there anything more specific I  
21 can answer in your question? Is there anything that  
22 you're driving at that I'm not following or understanding?

23 We want to make this as easy as possible for  
24 people to provide information or views or testimony in  
25 whatever way they feel most comfortable.

1 MS. HARDESTY: Thank you, Judge Simon. I  
2 appreciate the desire of the Court. As I look at the form  
3 that we're going to send out, it is a pretty  
4 intimidating-looking form. So if you are unaccustomed to  
5 speaking at the City Council or in front of a judge, I  
6 look at that form and thought that most regular people on  
7 the street, they would look at that form and be pretty  
8 overwhelmed.

9 I hope that does not limit people's desire to  
10 provide input. What I hope is that people will share  
11 their experience and how they think their experience fits  
12 into this settlement agreement. There are a lot of people  
13 that are just not -- they are not used to speaking in  
14 front of folks. I just wanted to make sure that if we  
15 took the time to collect community video testimony, that  
16 there would be a commitment from this Court that that  
17 would not be a wasted effort and that the Court would  
18 consider that testimony.

19 But I'm sure it won't happen the day of the  
20 fairness hearing. So clarity on what the process will be  
21 for reviewing that document and how that feeds in, I  
22 think, would be really helpful.

23 THE COURT: Excellent point. Let me state this:  
24 First of all, in terms of the legalistic nature of the  
25 form, which I do recognize, but we also want some

1 precision too. If any community organization, community  
2 leader, or anyone wants to take their own hand to craft  
3 some type of non-official, non-court sanctioned, approved  
4 form to let folks know what's going on and how it is going  
5 on, and you want to write it in plainer English or better  
6 communication, feel free to do it. I'm not necessarily  
7 asking for anyone to submit it to me, nor am I going to  
8 put the court stamp on it. But you are all welcome to  
9 provide whatever information you want to the people that  
10 you think might want to provide input or information.

11 So feel free to write a cover letter or a cover  
12 notice that says: You can either read the Court's form or  
13 just read this notice or read both, if you want. That's  
14 up to you all. The objective is to get people who want to  
15 submit information to feel comfortable doing it in any way  
16 they can do it.

17 Now, the idea behind the DVD was just that, that  
18 if people don't want to come to court, if people want to  
19 have their testimony or their information submitted in  
20 advance, the idea was organizations or groups or  
21 individuals can get that organized, can do it, and we will  
22 review it.

23 Right now, I'm really not anticipating, and this  
24 is just a guess, I'm not anticipating more than several  
25 hours' worth of that type of testimony. And if we have



1 several hours of that type of testimony, yes, we will  
2 watch them. We will review them, and it will become part  
3 of the record, absolutely.

4 What we will do if we get several thousand  
5 hours, I don't know. We will be back and talk about and  
6 figure it out. But I do anticipate that we will probably  
7 get anyway from several dozen or so folks that want to say  
8 what they want to say for a few minutes or so, and that  
9 will total a couple of hours, and that's workable. If we  
10 get something that's not workable, we will just take it  
11 one step at a time.

12 Ms. Hardesty, does that give you a sufficient  
13 answer?

14 MS. HARDESTY: Yes, sir.

15 THE COURT: Ms. Curphey.

16 MS. CURPHEY: Your Honor, if I may. In relation  
17 to several hours of testimony, I don't know how much time  
18 we have scheduled on the 18th.

19 THE COURT: All day. We are going to keep going  
20 until we're done. If we get lots of people that want to  
21 be heard, we're going to keep going until we're done. I  
22 do think that if we hit eleven o'clock, twelve o'clock,  
23 1:00 in the afternoon, and nobody else is here that wants  
24 to be heard, I may close the hearing. Thus, if someone  
25 comes at four o'clock expecting to be heard and didn't

1 send any notice, they may be out of luck. If we get a lot  
2 of people, we're going to keep going until we are done.

3 MS. CURPHEY: Thank you, Your Honor. That's  
4 what I wanted to clarify.

5 THE COURT: Please state your name.

6 MS. TERRELL: Thank you, Your Honor. I am  
7 Dr. Audrey Terrell, President for the Portland NAACP. I  
8 just wanted to, No. 1, inform you of my presence in the  
9 room and also the following process: It will be the  
10 intent of the NAACP to have some level of educational  
11 forums on this particular hearing. So as Jo Ann said, as  
12 simplistic as we can make it, so we can have some  
13 feedback. Thank you for this opportunity.

14 THE COURT: Excellent. Thank you for doing  
15 that.

16 All right. Anyone else? Seeing no hands, I am  
17 prepared now to enter the order setting notice and  
18 procedures for the fairness hearing with the exhibits, as  
19 modified per the discussions in this hearing. We will  
20 make those modifications right now. We will then issue  
21 the order electronically on the Court's system. I am sure  
22 that will be done before the end of today.

23 Then I will also have my court staff send to the  
24 counsel for all four parties here copies of these  
25 documents, after they have been corrected, so you can do

1 whatever you want with them, in terms of how you further  
2 distribute them, put them on your website, and we will do  
3 our best to get this up on the Court's website as soon as  
4 possible.

5 Again, I commend all counsel and their clients  
6 for their diligent efforts to bring this together. I  
7 thank all members of the public for the input that you  
8 provided so far, and I look forward to receiving more  
9 input on the fairness, reasonableness, or adequacy of the  
10 proposed settlement agreement on April 18th, 2014 at  
11 9:00 a.m. in this courtroom.

12 Let me begin by asking the Government now, any  
13 further matters that you believe I need to address at this  
14 hearing?

15 MR. GEISSLER: Yes, Your Honor, two other  
16 matters. I believe it was February 18th, not April 18th,  
17 for the order.

18 THE COURT: I see February 18th everywhere. Am  
19 I mistaken?

20 MR. GEISSLER: You said April.

21 THE COURT: The fairness hearing is  
22 February 18th, 2014, 9:00 a.m., in this courtroom.

23 MR. GEISSLER: Then there is one other matter.  
24 Yesterday, the City Council approved -- and I believe the  
25 City may speak to this -- an agreement between the

1 United States, the Portland Police Association, and the  
2 City wherein the Portland Police Association withdrew its  
3 objections to the settlement agreement.

4 I believe we wanted to raise two things with the  
5 Court: One is the withdrawing of the objections. It  
6 merits a representation from the PPA, and I thank the PPA  
7 for their hard work in reaching this point.

8 The second is, there is a provision in this  
9 agreement, if there is disagreement later, we would first  
10 seek to consult with one another, and then if that fails,  
11 to come to the Court for a resolution of that  
12 disagreement. That stated, we are asking the Court not to  
13 enter this agreement as an order, nor to grant  
14 tempore mature, nor to subject it to a fairness hearing in  
15 and of itself. But since it does ask the Court to take  
16 action, we would like the Court to be aware of that  
17 potential action.

18 THE COURT: I think it would be a good idea, for  
19 the completeness of the file, for you to all file that as  
20 a formal document, even if it is just a notice to the  
21 Court, with the Court's formal docket system, unless there  
22 is a good reason not to do it. But if there is not a good  
23 reason not to do it, I think the PPA, or someone, should  
24 just simply file that with the Court, maybe as a notice of  
25 withdrawal of objections by PPA and other related issues,

1 or something like that.

2 MR. GEISSLER: Yes, Your Honor. From my  
3 understanding, the United States and the other parties  
4 agree that this side agreement does not change a  
5 settlement agreement such that there is no need to  
6 consider whether or not the settlement agreement is  
7 modified by this agreement.

8 THE COURT: Thank you.

9 MR. GEISSLER: Thank you, Your Honor.

10 THE COURT: All right. So I was asking if there  
11 was anything else that anyone believe I need to address at  
12 this hearing.

13 From the City, anything else?

14 MS. OSOINACH: I appreciate Mr. Geissler  
15 clarifying that. With that, there is nothing further.

16 THE COURT: From the police association?

17 MS. KARIA: Nothing further, Your Honor. I do  
18 want to acknowledge, for the record, that the PPA,  
19 pursuant to its memorandum agreement, has withdrawn its  
20 objections. Per the Court's direction, we will file a  
21 notice in the docket.

22 THE COURT: Thank you. Very good.

23 Anything further that I should address from the  
24 perspective of the Albina Ministerial Alliance Coalition  
25 for Justice and Police Reform?

1 MS. CURPHEY: I have one question now, in light  
2 of the decision to enter the agreement between the PPA,  
3 their side agreement. The AMA has a collaborative  
4 agreement as well with the Department of Justice and the  
5 City that doesn't require the Court to take action, but to  
6 the extent that you want a complete file, perhaps you want  
7 the collaborative agreement entered as well.

8 THE COURT: Here is my thinking on it, and I  
9 will leave this to you all. If you want to enter that in  
10 the Court's file, you are certainly welcome to do so. I  
11 have no objection to that. It is fine. If you have a  
12 reason for not doing it, then fine. You don't have to do  
13 it.

14 The reason I wanted it entered in the record,  
15 with respect to the police association, if there is a  
16 possibility that something may result in a request for  
17 court assistance down the road, I wanted a comprehensive  
18 record on that issue. If that's not part of the Albina  
19 Ministerial Coalition's agreement, then I will leave it up  
20 to you all whether you want to enter that into the record  
21 or not.

22 MS. CURPHEY: Thank you, Your Honor.

23 THE COURT: Thank you all very much. If I say  
24 the month correctly now, we will get this right. I look  
25 forward to seeing you all on February 18th, 2014,

1 9:00 a.m.

2 We will be in recess.

3 COUNSEL: Thank you, Your Honor.

4 (Court adjourned.)

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I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/ Dennis W. Apodaca  
DENNIS W. APODACA, RDR, RMR, FCRR, CRR  
Official Court Reporter

December 30, 2014  
DATE